



**U.S. Immigration
and Customs
Enforcement**

August 1, 2013

SARAH CORTES
MUCKROCK NEWS DEPT MR 2771
P.O. BOX 55819
BOSTON, MA 02205-5819

Re: 2013FOIA28195

Dear Ms. Cortes:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the U.S. Immigration and Customs Enforcement (ICE), dated July 14, 2013, and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on August 1, 2013. Specifically, you requested all records, including any subpoenas and electronic orders of preservation issued by ICE between 2008 and 2013, (the past 5 years) that mention the Tor Project, or one of the following individuals involved with the Tor Project, including Andrew Lewman, Roger Dingledine, Nick Mathewson, and Jacob Appelbaum (who also may be know as "Jacob Applebaum" or "Jake Applebaum/Appelbaum").

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 9677 open requests ahead of yours.

As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that MUCKROCK NEWS DEPT MR 2771 is entitled to a blanket waiver of fees.

The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requestor has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.


As a requester, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your July 14, 2013 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient because your request fails to meet all of the factors. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requestors. As a non-commercial requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

You have the right to appeal the determination to deny your fee waiver request. Should you wish to do so, you must **send your appeal within 60 days of the date of this letter to:** Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in Subpart A, Section 5.9, of the DHS Regulations. Your envelope and letter should be marked "Freedom of Information Act Appeal." The implementing Department regulations establish the criteria under which the FOIA is administered. Copies of the FOIA and regulations are available at www.DHS.gov.

Your request has been assigned reference number **2013FOIA28195**. Please refer to this identifier in any future correspondence. If you have any questions, or would like to discuss this matter, please feel free to contact this office at (866) 633-1182.

Sincerely,



Catrina M. Pavlik-Keenan
FOIA Officer



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We have queried the appropriate program offices within ICE for responsive records. If any responsive records are

located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2013FOIA28195**. Please refer to this identifier in any future correspondence. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Pavlik-Keenan', with a long horizontal flourish extending to the right.

Catrina M. Pavlik-Keenan
FOIA Officer



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Re: 2013FOIA28195

Dear Ms. Cortes:

This acknowledges receipt of your Freedom of Information Act/Privacy Act (FOIA/PA) request to the U.S. Immigration and Customs Enforcement(ICE), dated July 14, 2013, and seeking all records, including any subpoenas and electronic orders of preservation issued by ICE between 2008 and 2013, (the past 5 years) that mention the Tor Project, or one of the following individuals involved with the Tor Project, including Andrew Lewman, Roger Dingledine, Nick Mathewson, and Jacob Appelbaum (who also may be know as "Jacob Applebaum" or "Jake Applebaum/Appelbaum"). Your request was received in this office on August 1, 2013.

Please be advised that DHS regulations require, in the case of third party information requests, a statement from the individual verifying his or her identity and certifying that individual's agreement that records concerning him or her may be accessed, analyzed and released to a third party. See 6 C.F.R. § 5.21(f). Because you have not provided this documentation with your request, we are unable to initiate a search for responsive records.

Please provide the requested documentation within 10 days from the date of this letter, or we will assume you are no longer interested in this FOIA/PA request, and the case will be administratively closed.

This is not a denial of your request. Upon receipt of a perfected request, you will be advised as to the status of your request.

If you have any questions or would like to discuss this matter, please feel free to contact this office at (866) 633-1182 . Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Pavlik-Keenan', with a long horizontal flourish extending to the right.

Catrina M. Pavlik-Keenan
FOIA Officer



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AFFIRMATION/DECLARATION

This is to affirm that

I, _____,
(PRINT FULL NAME)

request access to records maintained by the Immigration and Customs Enforcement which
pertain to me. My present address is:

my date of birth is: _____, and

my place of birth was: _____.

I understand that any knowingly or willfully seeking or obtaining access to records about another
person under false pretenses is punishable by a fine of up to \$5,000. I also understand that any
applicable fees must be paid by me.

I hereby authorize _____ access to my records.
(PRINT FULL NAME)

I request that any located and disclosable records be forwarded to the following individual:

_____ at the following address:
(PRINT FULL NAME)

I hereby declare or certify under penalty of perjury that the foregoing is true and correct.

Executed on _____
(DATE)

(SIGNATURE OF AFFIRMANT/DECLARANT).